

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
CANCELLATION NO. 92053802

**MOTION TO AMEND REGISTRATION, BY OWNER OF REGISTRATION NO. 2147129**

IN RE: "TEAS REQUEST FOR SECTION 7" FILED (INCLUDING FEES PAID) BY OWNER ON MARCH 28, 2011

PATRICIA GREEN BUDWIG, Registrant  
STARSHINE THEATER / Music in our Hearts  
8540 Georgetown Pike, McLean, VA 22102  
email: [Pat@StarshineTheater.com](mailto:Pat@StarshineTheater.com)  
Registration No. 2147129, Issued: March 3, 1998  
Mark/Words original design:  
First Use/Designed by owner: Aug. 1, 1994  
First Use in Commerce: January 1, 1995  
First Application to Register Mark: May 1, 1996

**Submitted by Registrant January 30, 2012**

Served upon Petitioner via email as agreed, to:  
SYLVIA MULHOLLAND  
Law Office of Sylvia Mulholland  
5405 Wilshire Blvd Suite 220 Los Angeles, CA 90036  
Email: [smulholland@mulholland-law.com](mailto:smulholland@mulholland-law.com)

Attn: Michael B. Adlin, Interlocutory Attorney  
United States Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

75/153,257



02-01-2012

U.S. Patent & Trademark Office, Rept. Dt., #01

**MOTION TO AMEND / CONTINUE AMENDMENT IN PROGRESS**

I, Patricia Green Budwig, hereby declare that:

I am a citizen of the United States and have an address of 8540 Georgetown Pike, McLean, VA 22102

I own Registration No. 2,147,129, issued March 31, 1998, as shown by records in the U.S. Patent and Trademark Office; the mark has been in continuous use from that day, and is still in use in commerce.

As posted on the website at: [tsdr.uspto.gov/documentviewer](http://tsdr.uspto.gov/documentviewer) Case ID: 2147129, File Date: March 30, 2011, Pages 1 – 33. See registered design on Page 5 and amended design on Page 6.

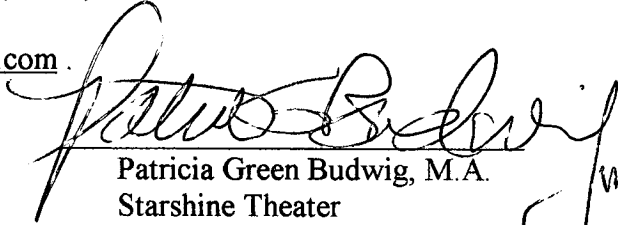
The request regarding the mark itself, is simply to return to the original mark I designed in 1994, and have used interchangeably with the registered mark, to this day. The only material alteration to the currently registered mark is to remove the space between the words, "star" and "shine." In 1996 when I applied to register my mark, I was told I needed to separate the two words, by the then-owners of another "Starshine" trademark, who then abandoned their mark a few months thereafter. In the years since then,

I have often used the word “Starshine” as one word, and have received instruction from USPTO officers that this is acceptable since my mark is the only “Starshine” in Class 41, and is also incontestable. With the advent of the internet **after** I designed my mark, it has become essential in commerce that I use “Starshine” as one identifying word (for example, one of my websites is [www.StarshineTheater.com](http://www.StarshineTheater.com), etc.)

The other simple request I have made on the 3/28/11 amendment regards the wording in the “Description of Services” for my mark. Since I have always taught all ages of children, in various settings including pre-schools through high-schools (and not just secondary school children as is printed on my register), the word “secondary” needs to be removed. I have searched back over the records, and do not know how this apparent typographical error occurred.

It should be noted that, when researching the history of my mark at [tsdr.uspto.gov](http://tsdr.uspto.gov), my first application on 5/1/96 containing my original logo (which I am asking here to return to as my registered mark), and its supporting specimens, have been moved to a different place on that site, to the inaccurate listing of “May 16, 2007” with the title of “Unclassified,” pages 1-37. There used to be a more accurate, detailed chronological listing of my documents on [uspto.gov](http://uspto.gov), beginning with my application I sent on 5/1/96. Now, the first listing/title on the site is “March 31, 1998,” which is my registration certificate. It was easier to find my documents of 1996-1998 when they were listed/titled more clearly on the site.

I hereby certify that on this, the 30<sup>th</sup> day of January, 2012, I have sent this Motion via electronic mail to Ms. Mulholland at: [smulholland@mulholland-law.com](mailto:smulholland@mulholland-law.com).

  
Patricia Green Budwig, M.A.  
Starshine Theater  
8540 Georgetown Pike  
McLean, VA 22102  
703.790.9050  
[Pat@StarshineTheater.com](mailto:Pat@StarshineTheater.com)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
Opposition No. 92053802**

PATRICIA GREEN BUDWIG, Registrant/Respondent  
STARSHINE THEATER / Music in our Hearts  
8540 GEORGETOWN PIKE \* MCLEAN, VA 22102  
**e-mail: Pat@StarshineTheater.com**  
Registration No. 2147129, Issued: March 3, 1998  
Mark/Words original design:  
First Use/Designed by Owner: Aug. 1, 1994  
First Use in Commerce: January 1, 1995  
First Application to Register Trademark: May 1, 1996

Education Resources, LLC, Petitioner  
Cancellation No. 92053802

v.

Patricia Green Budwig, Registrant/Respondent  
Registration No. 2147129, Serial No. 75153257

Served via email as agreed, to:  
SYLVIA MULHOLLAND  
LAW OFFICE OF SYLVIA MULHOLLAND  
5405 WILSHIRE BLVD SUITE 220  
LOS ANGELES, CA 90036, U.S.  
**e-mail: smulholland@mulholland-law.com**

CC: Mr. Michael Adlin, Interlocutory Atty,  
Trademark Trial and Appeal Board  
P.O. Box 1451, Alexandria, VA 22313-1451

**RESPONSE to PETITIONER'S FIRST INTERROGATORIES and REQUESTS**  
*(Requests Sent by Petitioner, Atty. Mulholland, on January 6, 2012)*

**Response Submitted Here by Registrant/Respondent, Pat Budwig, on January 30, 2012**

Dear Ms. Mulholland,

I am submitting this RESPONSE to your e-mail address listed above, as we have agreed to use the internet. I am attempting to adhere to your 35-day deadline posted in your January 6, 2012 letter. I hope we can continue our conversations and edits of the Settlement and Consent Agreements, regardless of other deadlines that may arise.

On April 26, 2011, and again on July 28, 2011, I submitted dozens of examples regarding the use of my 'Starshine Theater' trademarked logo in commerce; please see the titles, "Answer" and "Initial Disclosure by Registrant" on the TTAB website showing these documents and supporting specimens. For your convenience, my "Initial Disclosure" to you is again printed at the end of this Response, including "Exhibit B" and "Exhibit C" showing the links to these answers and specimens. After much research, I have found that I far exceeded the necessary support info for the "Initial Disclosure" phase, and have already fulfilled the requirements of this next Discovery phase. If you look very carefully at

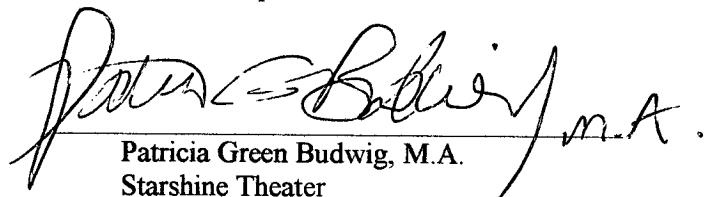
all of the documents I have already provided, you will obtain the answers you need. The TTAB guidelines, even the letter sent to both of us by the TTAB on May 23, 2011, include instructions for Respondents to make "greater reciprocal disclosures" at the outset, so that the process can be expedited, and Agreements can be reached. It has always been my goal to provide this for you; I regret that I've not been provided much reciprocal information by yourself/your client.

Since so many months have now passed and I am still waiting for your client to approve of the most recent Settlement and Consent Agreements I have carefully edited for you (dated December 5, 2011), I will now update that I am indeed continuing to engage in my work using my "Starshine Theater" trademarked logo. Since last summer's "Disclosures," I have continued to conduct educational courses and performance events in various locations already outlined in the brochures, posters, websites and newspaper articles on exhibit at the uspto website; my video, "Starshine Theater – Music in our Hearts" continues to be offered on amazon.com (note my trademark logo has been on the cover since 1997), and I am still in the process of working with several agencies, including ASCAP and book authors, to further publish my original Starshine Theater plays, and curriculum guides, with logo, to a wider (international) audience.

As stated when I sent my Disclosures to you, "According to Fed. Rule of Civil Procedure 26 (a) (1), I, in good faith, submit these disclosures, without waiving any of my rights which are detailed in the Federal Rules, including Rule 26 (c), **the right to seek protection** of my information." At this juncture, I have supplied much more information than is needed, for you to easily determine I have not at all abandoned the use of my mark, a discovery which should have been "exceedingly simple" and "uncomplicated," according to the letter to us from the TTAB dated May 23, 2011. As always, I'll be happy to discuss this response with you further, and guide you through the many examples and specimens available to you.

I hereby certify that on this, the 30<sup>th</sup> day of January, 2012, I have sent this response via electronic mail to:

[smulholland@mulholland-law.com](mailto:smulholland@mulholland-law.com)



Patricia Green Budwig, M.A.  
Starshine Theater  
8540 Georgetown Pike, McLean, VA 22102  
703.790.9050  
[Pat@StarshineTheater.com](mailto:Pat@StarshineTheater.com)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
INITIAL DISCLOSURES, CANCELLATION NO. 92053802

PATRICIA GREEN BUDWIG, Registrant/Respondent  
STARSHINE THEATER / Music in our Hearts  
8540 GEORGETOWN PIKE \* MCLEAN, VA 22102  
**e-mail: Pat@StarshineTheater.com**  
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SYLVIA MULHOLLAND  
LAW OFFICE OF SYLVIA MULHOLLAND  
5405 WILSHIRE BLVD SUITE 220  
LOS ANGELES, CA 90036, U.S.  
**e-mail: smulholland@mulholland-law.com**

**INITIAL DISCLOSURE by REGISTRANT / RESPONDENT**

**Submitted July 28, 2011**

Dear Ms. Mulholland,

I am submitting this INITIAL DISCLOSURE to your e-mail address listed above, as well as via U.S. Mail.

According to Fed. Rule of Civil Procedure 26 (a) (1), I, in good faith, submit these disclosures, without waiving any of my rights which are detailed in the Federal Rules, including Rule 26 (c), the right to seek protection of my information.

I will here provide detailed information for this disclosure, and am always glad to clarify any questions you might have.

For convenience only, I am also copying applicable excerpts from my original "ANSWER" dated April 26, 2011

(Here called "Appendix I"), as well as its "Exhibits A, B and C," since they continue to disclose a good sample of my work as it is represented by my trademark, and exemplify the continued use of my STARSHINE THEATER trademark in identifying my work since I first designed my mark in 1994. I realize I am disclosing more information than is required for this phase of Discovery, yet, I am being instructed by the TTAB that, in the long run, it's best to share information as soon as possible, to avoid conflicts later on. I concur with this viewpoint, especially while I am attempting to arrive at an informed Agreement whereby your client's "Starshine Academy" may register their mark in Class 41.

**A. Name, Address and Phone Number of individual having discoverable information, that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subject of the information:**

Patricia Green Budwig, Sole Proprietor and Trademark Registrant  
STARSHINE THEATER / Music in our Hearts  
8540 Georgetown Pike  
McLean, VA 22102

**B. A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment:**

**1.) PAPER RECORDS:** All documents related to Petitioners' mark, STARSHINE ACADEMY & Design;

All Trademark Office interactions re: STARSHINE THEATER since my first application May 1, 1996;

Starshine Theater's Course Brochures & Ads, Lesson Plans, Student/Family Correspondences, Photographs;

Research Notes and Final Compositions of Performance Scripts and Music for approx. 50+ plays;

Art Work for original 1994 Trademark Design, and designs for our stage sets, posters for performances, etc.

**2.) 3-DIMENSIONAL ITEMS:**\* Copies of my original video, "Starshine Theater presents: Music in our Hearts,"

'Copyright 1997 by Starshine Theater,' released by Gateway Films/Vision Video and still available for purchase;

Teaching Materials (books, CD's, rhythm instruments, story props, visual aids);

Stage Art and Supplies (Lighting units, Sets, Props, Costumes, Hardware, Paints & Construction materials);

Musical Instruments and Audio Recording Equipment to create original soundtracks for Plays and Events;

\* Note that some of these teaching materials are currently stored at The School of Theatrical Dance,

Great Falls, VA, where our Summer 2011 Camps are held.

**3.) ELECTRONICALLY FILED ITEMS:** All USPTO and TTAB Trademark files (public information),

Correspondence with students/families, Research notes and finished scripts from more recent plays,

Correspondence with professional colleagues related to the works of Starshine Theater, including Authors,

Musicians, Stage Technicians, Publishers; Related Continuing Education communications including

ASCAP membership events, and "Yale in Hollywood" writers' conferences for Alumni.

Dated: July 28, 2011

Respectfully submitted,

By \_\_\_\_\_  
Patricia Green Budwig

STARSHINE Theater \* 8540 Georgetown Pike \* McLean, VA 22102 \* ph: 703.790.9050  
[www.StarshineTheater.com](http://www.StarshineTheater.com) [www.StarshineTheater.org](http://www.StarshineTheater.org) [www.StarshineTheaterCamp.com](http://www.StarshineTheaterCamp.com)  
email: [Pat@StarshineTheater.com](mailto:Pat@StarshineTheater.com) [Pat@StarshineTheater.org](mailto:Pat@StarshineTheater.org) [StarshineTheater@aol.com](mailto:StarshineTheater@aol.com)

*Continues...*

**EXHIBIT B: Some Current or Recent Activities of STARSHINE in Commerce**

1. STARSHINE THEATER's original video, 'MUSIC IN OUR HEARTS,' authored and performed by Pat Budwig teaching early childhood Music and Arts curriculum, was released in 1997 by Vision Video, PA, and is still current.
2. Current or Recent locations of STARSHINE courses, performances and public events in schools, after-school programs, camps, studios, community centers, theater venues, town festivals, parades, etc.:

The School of Theatrical Dance, Great Falls, VA  
The Waddell Theater, NoVA College, Sterling, VA  
St. Francis Creche School, Great Falls, VA  
The Langley School, McLean, VA  
The Grange Theater, Great Falls, VA  
Great Falls Methodist Preschool, VA  
The Connelly School, Potomac, MD  
Great Falls Elementary School, VA  
Reston Town Parade, VA  
Great Falls Day, Main Performance Stage, VA  
Great Falls Village Green Day School, VA

3. Current, Recent or Ongoing activities to further publish STARSHINE original works to a wider audience:

Member, ASCAP, American Society of Composers and Publishers, New York, NY  
Participant, Musical Theater Writer's Workshops hosted by ASCAP and Stephen Schwartz ("Wicked"), NYC  
Participant, "YALE in Hollywood" For Yale Alumni, connecting writers with international Agents and Publishers  
Currently submitting STARSHINE plays for publication to agencies in NYC and Los Angeles, CA area  
Currently working w/best-selling children's author; STARSHINE's music submitted to major motion picture studio

4. Current or Recent Continuing Education activities; Ms. Budwig continues to enhance STARSHINE curriculum:

Attendee, YALE Master's Program Alumni Reunions (since 1979), with networking and seminars  
Student and Guest Instructor of teachers in Association of Early Childhood Educators  
Student of Voice and Dance/Movement at Broadway Dance Center, New York, NY  
Student and Guest Instructor at The Levine School of Music, Washington, DC  
Volunteer Docent for the "Eiko and Koma" performances, Mikhail Baryshnikov Dance Center, NYC

5. A short sample of STARSHINE original play workshops performed by various student groups, representing approximately 50+ plays composed with the objective of education by student participation, over the past 17 years. Most scripts include an original music CD soundtrack with student vocals recorded onto STARSHINE's music:

"All the World's A Stage – The Life and Times of William Shakespeare" (Elizabethan England curriculum)  
"The Life and Times of Leonardo da Vinci" (Renaissance Arts, Sciences and Politics)  
"The Life and Times of Galileo Galilei" (Pre-Renaissance Science in Politics and Religion)  
"The Life and Times of Diego de la Vega" (El Zorro – History of U.S. West Coastal Native Americans/Mexicans)  
"The Odyssey" by Homer, and "Aesop's Fables" (Ancient Greece ~ History, Mythology, Literature)  
"The Seven Wonders of the Ancient World" (Students time-travel back to learn of the architectural greats)  
"The Honorable History Society Mystery" (Characters come alive from the paintings in the National Gallery)

Respectfully Submitted,

By \_\_\_\_\_  
Patricia Green Budwig  
STARSHINE Theater Registration #2147129

### **EXHIBIT C:**

**A short list of current internet 'search' entries for Starshine Theater, Music in our Hearts, Pat Budwig**  
(This list is a very small sample of many similar entries found on the internet.)

**StarshineTheater** presents: Performing Arts Camps and Year-Round Workshops for All Ages...  
While we expand our website, please contact: **Pat@StarshineTheater.com**.  
[www.starshinetheater.com/](http://www.starshinetheater.com/) - [Cached](#) - [Similar](#)

### **Music in Our Hearts - video on CastTV Video Search**

... episode from **Music in Our Hearts** on Amazon.com (\$12.99) ... many 3-through- 6 year old students often ask **Patricia Budwig**, Director of **Music** ... to the **music** in your hearts!"  
Tags: createspace, **starshine theater** ...  
[www.casttv.com/.../music-in-our-hearts-music-in-our-hearts-video](http://www.casttv.com/.../music-in-our-hearts-music-in-our-hearts-video) - [Cached](#)

### **School of Theatrical Dance - Great Falls, VA**

In 1998 Pat Budwig's Starshine Theater found its new home with us and ...  
[www.theatricaldance.com/aboutusfaqs.nxg](http://www.theatricaldance.com/aboutusfaqs.nxg) - [Cached](#) - [Similar](#)

**Week in Great Falls** Feb 10, 2011 ... Meet **Patricia Budwig** of **Starshine Theater**, and learn about performing arts workshops in music, voice and acting for all ages. ...  
[www.connectionnewspapers.com/article.asp?article=348251...](http://www.connectionnewspapers.com/article.asp?article=348251...) - [Cached](#)

### **Yale Divinity School-class 79**

**Patricia Green Budwig '79** M.A.R serves as Creative Director for **Starshine Children's Theater** in Great Falls, VA. She writes and directs original plays...  
[www.yale.edu](http://www.yale.edu) › [YDS Home](#) › [Alumni](#) › [Class Notes](#) - [Cached](#) - [Similar](#)

**FCPSdrama.com** Apr 15, 2010 ... Info: **Patricia Budwig**, M.A., Play Director, 703.790.9050 or [StarshineTheater@aol.com](mailto:StarshineTheater@aol.com)

**STARSHINE THEATER** TM is enrolling student actors for its 17th annual Summer ...  
[www.fcpsdrama.com/](http://www.fcpsdrama.com/) - [Cached](#) - [Similar](#) [Show more results from fcpsdrama.com](#)

### **Starshine Theater - My Neighbors Network, A Resource for your home**

**Pat Budwig**, M.A. has been teaching Voice in the GF area for 20 years.  
She also directs the "**Starshine Theater**" musical productions, which include a ...  
[www.myneighborsnetwork.com/index.cfm?...id...](http://www.myneighborsnetwork.com/index.cfm?...id...) - [Cached](#)

**Great Falls** Oct 14, 2010 ... **Starshine Theater** of Great Falls presents "How to Audition for a Stage Show" for ages 6 through 18 years. Instructor: **Patricia Budwig** ...  
[connectionarchives.com/PDF/2010/100610/Great%20Falls.pdf](http://connectionarchives.com/PDF/2010/100610/Great%20Falls.pdf)

### **STARSHINE THEATER! MUSIC IN OUR HEARTS - Trademark by Budwig ...**

This trademark is owned by **Budwig, Patricia Green**, McLean, VA 22102.  
The USPTO has given the **STARSHINE THEATER! MUSIC IN OUR HEARTS** trademark serial number ...  
[www.trademarkia.com](http://www.trademarkia.com) › ... › [Education and Entertainment Services](#) - [Cached](#)

Respectfully Submitted,

By \_\_\_\_\_  
**Patricia Green Budwig**  
**STARSHINE Theater Registration #2147129**



**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing INITIAL DISCLOSURE with supporting enclosed documents (Including excerpts from 4/26/11 "Answer" here called "Appendix 1," and including Exhibits A,B and C) was served upon Petitioner by e-mailing the same to: smulholland@mulholland-law.com , and by sending via U.S. Mail, first class postage prepaid, to:  
Sylvia Mulholland, Law Offices of Sylvia Mulholland, at 5405 Wilshire Blvd. Suite 220, Los Angeles, CA 90036,  
on this 28th day of July, 2011.

---

Patricia Green Budwig

**Enclosures:**

Appendix 1

Exhibits A, B and C.